



DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGULATIONS BOARD
WASHINGTON, D.C. 20590

Hazardous Materials Regulations
Board

[49 CFR Parts 174, 175, 177]

[Docket No. HM-4; Notice No. 69-12]

LOADING AND TRANSPORTING
POISONS, CLASS A OR B WITH
FOODSTUFFS

Proposed Restrictions

The Hazardous Materials Regulations Board is considering amending Parts 174, 175, and 177 of Title 49 and Part 103 of Title 14 of the Department's Hazardous Materials Regulations (1) to clarify a previous amendment (Amendment 67-1, Docket HM-4) concerned with the carriage of poisons and foodstuffs and (2) to propose further amendments to the current loading and carriage requirements. An advance notice of proposed rule making will soon be published which request public advice on the reasons package of packages, the resulting hazards, and appropriate regulatory action.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket and notice number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before June 10, 1969, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

Amendment 67-1 was issued on December 21, 1967 (32 F.R. 20982, 12-29-67) after a number of deaths occurred outside the United States due to eating food that was contaminated by an insecticide or pesticide. Many of the contamination incidents resulted from shipments originating in the United States. A number of injuries occurred in the United States from similar contamination incidents. Numerous petitions and complaints have been filed with the Board since issuance of Amendment 67-1 pointing out certain problems caused by the rule. In this notice the Board proposes to resolve some of these problems by making certain clarifying changes in language. In addition, the Board proposes to adopt additional restrictions on the comingling of shipments of poisons and foodstuffs.

One major difficulty in attempting to comply with the amendment was a lack of certainty as to how far a carrier was required to go in identifying foodstuffs, feeds, or any other material intended for consumption by humans or animals under the provisions of the amendment. The Board recognizes the difficulties inherent in attempting to segregate packages of foodstuffs under normal cargo handling procedures. It is proposed to clarify and relax this requirement. Only those foodstuffs and feed, etc., which are clearly marked as or are known to be such need be considered in applying these regulations.

Carriers have had difficulty in understanding the meaning of the terms "airtight and nonpermeable." Although the normal dictionary meaning of these terms was intended, the amount of confusion that has ensued warrants reconsideration of this requirement. In many cases, the mechanics of making on-the-spot field determinations of whether a particular packaging for foodstuffs was airtight or nonpermeable were impracticable. The practical result often was an operational restriction by carriers against loading any poisons with any foodstuffs, regardless of packaging. Several carrier representatives have suggested that the regulations be amended to that effect to reflect the practicalities of transportation.

Although the regulations in question at present deal only with poison, class B, several class A poisons are shipped as liquids. The Board therefore proposes to include all class A poisons in the restriction against loading with foodstuffs, feeds, or any other material intended for consumption by humans or animals. Accordingly, the Board proposes to place a total restriction on the transportation of all packages of poisons, class A or B, with packages of foodstuffs, feed, or any other material intended for consumption by humans or animals as discussed above.

Another clarifying change that is proposed would limit post-transportation inspection on aircraft to the compartment in which the poisonous material was carried. Aircraft have a number of isolated cargo compartments with no reasonable way for materials to leak from one compartment to another. Therefore, it is unreasonable to require inspection of an entire aircraft in every case.

In consideration of the foregoing, it is proposed to amend Parts 174, 175, 177, and 103 of the Department's Hazardous Materials Regulations as provided for herein. This proposal is made under the

authority of sections 831-835 of title 18, United States Code; section 9 of the Department of Transportation Act (49 U.S.C. 1657); and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on May 5, 1969.

F. C. TURNER,
Administrator,
Federal Highway Administration.

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

SAM SCHNEIDER,
Board Member, for the
Federal Aviation Administration.

I. Part 174 would be amended as follows:

A. By amending paragraph (m) in § 174.532 to read as follows:

§ 174.532 Loading other dangerous articles.

(m) Material marked as or known to be poison, class A or B, must not be transported in the same car with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

B. By amending subparagraph (a) (1) in § 174.566 to read as follows:

§ 174.566 Cleaning cars.

(a) * * *

(1) A car which has been used to transport material marked as or known to be poison, class A or B, must be inspected for contamination before reuse. A car which has been contaminated must not be returned to service until such contamination has been removed. This subparagraph does not apply to cars used solely for transporting such poisons so long as they are used in that service.

II. Part 175 would be amended as follows:

A. By amending paragraphs (k) and (l) in § 175.655 to read as follows:

§ 175.655 Protection of packages.

(k) Material marked as or known to be poison, class A or B, must not be transported in the same car with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

(1) A car which has been used to transport material marked as or known to be poison, class A or B, must be inspected for contamination and must not be returned to service until such contamination has been removed.

III. Part 177 would be amended as follows:

A. By amending paragraph (e) in § 177.841 to read as follows:

§ 177.841 Poisons.

* * * * *

(e) Material marked as or known to be poison, class A or B, must not be transported in the same vehicle with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

B. By amending subparagraph (a) (1) in § 177.860 to read as follows:

§ 177.860 Accidents or leakage; poisons.

(a) * * *

(1) *Leakage.* A vehicle which has been used to transport material marked as or known to be poison, class A or B, must be inspected for contamination before reuse. A vehicle which has been contaminated must not be returned to service until such contamination has been removed. This subparagraph does not apply to vehicles used solely for transporting such poisons so long as they are used in that service.

* * * * *

IV. Part 103 of Title 14 would be amended as follows:

A. By amending § 103.35 in its entirety to read as follows:

§ 103.35 Special requirements for poisons.

(a) No operator of an aircraft may carry material marked as or known to

be poison, class A or B, in the same cargo compartment of an aircraft with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

(b) No person may operate an aircraft that has been used to transport material marked as or known to be poison, class A or B, unless, upon removal of such poisonous material, the compartment in which it was carried is inspected for leakage, spillage, or other contamination. All contamination discovered must be either isolated or removed from the aircraft. The operation of an aircraft contaminated with such poisons is considered to be the carriage of poisonous materials under paragraph (a) of this section.

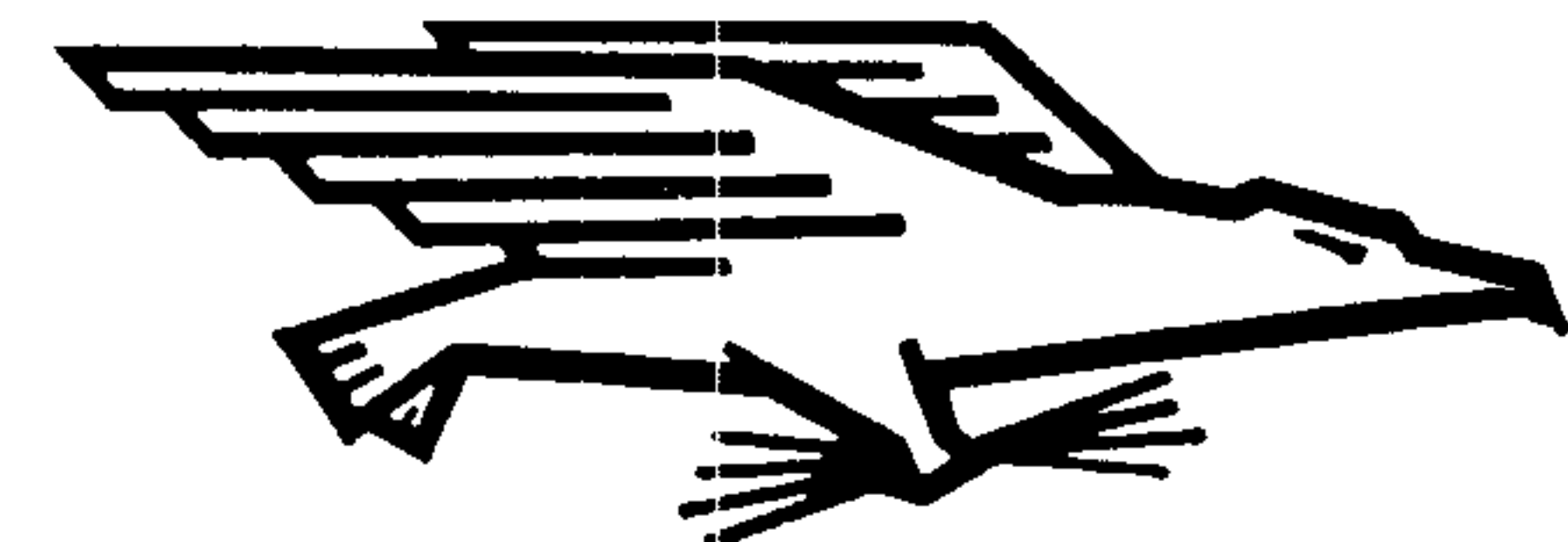
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FEDERAL AVIATION ADMINISTRATION
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